

January 13, 2010

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Stephen C. Huddy

Date of Filing: December 14, 2009

Case Number: TFA-0343

On December 14, 2009, Stephen C. Huddy filed an Appeal from a determination issued to him on November 24, 2009, by the Department of Energy's Office of Legacy Management (LM). That determination was issued in response to a request for information that Mr. Huddy submitted under the Freedom of Information Act, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. In his Appeal, Mr. Huddy asks that LM conduct an additional search for documents responsive to his request.

I. Background

Mr. Huddy filed a request for information in which he sought “a copy of documents, written or photographic records that pertain to all DOE investigations of chemical and radioactive contamination on a 8600-acre parcel of land known from 1942-44 as the Pennsylvania Ordnance Works and subsequently (1944-50) known as the Susquehanna Ordnance Depot.” *See* Determination Letter at 1. In its Determination Letter, LM stated that it conducted a search of all available records but was unable to locate any documents responsive to Mr. Huddy’s request. However, LM referred Mr. Huddy to one of its websites for additional information regarding his request. According to LM, the website “states that the Pennsylvania Ordnance Works (PA.32) site was in a group of sites for which almost no information is available.” *Id.* LM further stated that Mr. Huddy may wish to search for additional documents with the Department of Defense, particularly the United States Army Corps of Engineers (USACE). Additionally, LM stated that if any clean-up was conducted at an Ordnance site, it most likely would have been done under the Defense Environmental Restoration Program for Formerly Used Defense Sites, which is administered by USACE. On December 14, 2009, Mr. Huddy filed the present Appeal with the Office of Hearings and Appeals (OHA). In his Appeal, Mr. Huddy challenges the adequacy of the search conducted by LM.

II. Analysis

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Doris M. Harthun*, Case No. TFA-0015

(2003). ^{*}/ The FOIA, however, requires that a search be reasonable, not exhaustive. “[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought material.” *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord, Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). The fact that the results of a search do not meet the requester’s expectations does not necessarily mean that the search was inadequate.

In reviewing the present Appeal, we contacted officials in LM to ascertain the extent of the search that had been performed and to determine whether any other documents responsive to Mr. Huddy’s request might reasonably be located. LM informed us that upon receiving Mr. Huddy’s request for information, it directed its FOIA processing personnel to search the DOE-LM Electronic Recordkeeping System for information that could potentially be responsive to Mr. Huddy’s request. This database contains information regarding all records in LM’s custody. *See* LM’s Response to FOIA Appeal (January 7, 2010). LM informed us that it used a number of search terms in conducting its search including the following: Pennsylvania Ordnance Works, Pennsylvania, Ordnance Works, Susequehanna Ordnance Depot, Susequahanna, Williamsport PA, Department of Defense, uranium metal turnings, James J. Fiore, James Fiore, Carl Shafer, May 29 1987, July 23, 1982, radiological contamination, ammunition igloos, magazines, War Department, U.S. Army Corps of Engineers, historical material, TNT production, mitigation planning, radiological issues, U.S. Bureau of Prisons and FCC Allenwood. *Id.* In addition, LM informed us that it consulted with a subject matter expert to aid in its processing and search activities for this request. *Id.* LM stated that its search yielded eight pages of documentation, which it reviewed and determined to be non-responsive to Mr. Huddy’s request. *Id.* Given the facts presented to us, we find that LM conducted an adequate search which was reasonably calculated to discover documents responsive to Mr. Huddy’s request. Accordingly, Mr. Huddy’s Appeal should therefore be denied.

It Is Therefore Ordered That:

- (1) The Appeal filed by Stephen C. Huddy, OHA Case No. TFA-0343, on December 14, 2009, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: January 13, 2010

^{*}/ All OHA FOIA decisions issued after November 19, 1996, may be accessed at <http://www.oha.doe.gov/foia1.asp>.